

indicated to contain allowable subject matter. *Office Action* at p. 4. No claims have been amended in this Reply.

II. Information Disclosure Statement

The Examiner notes that co-pending U.S. Application No. 10/086,248 (Attorney Docket No. 5725.1032-00) was not considered as Applicants have not provided a copy. *Office Action* at p. 2. Accordingly, Applicants provide a copy with this Reply, and respectfully request consideration of the copending application.

Applicants also submit an Information Disclosure Statement listing WO 99/49837, which was cited by the Examiner in co-pending U.S. Application No. 10/086,248.

III. Double Patenting

Claims 1 and 27 are rejected under the judicially created doctrine of double patenting over claim 1 of U.S. Patent No. 6,585,962. *Office Action* at p. 3. The Examiner believes that claims 1 and 27 are not "patentably distinct" from claim 1 of the '962 patent because it "is directed towards a process of preserving a composition comprising administering a preserving agent chosen from polyamino acids derivatives ... [and the] instant invention is directed towards an anti-wrinkle composition comprising the same polyamino acid." *Id.*

Applicants respectfully disagree. A claim to a process of preserving a composition would not necessarily render obvious claims to an anti-wrinkle composition. Claim 1 of the '962 patent does not teach or suggest that the preserving agents of formula (I) would be useful or desirable as an anti-wrinkle composition. One of ordinary skill in the art would understand that the preserving agent of the '962 patent affects the

composition itself and not the skin, much less act as an anti-wrinkle composition, as presently claimed.

Claim 1 of the '962 'therefore does not teach or suggest all the elements recited in claims 1 and 27 of the present application, and therefore fails to render these claims obvious. Accordingly, Applicants respectfully request withdrawal of this rejection.

IV. **Conclusion**

If the Examiner believes a telephone conference would be useful in resolving any outstanding issues, the Examiner is invited to call the undersigned at (202) 408-4162.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW
GARRETT & DUNNER, L.L.P.

By: 

Mark D. Sweet
Reg. No. 41,469

DATE: April 13, 2004